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ADOPTED 7/26/94

MEMORANDUM

JULY 26, 1994

TO: BOSTON REDEVELOPMENT AUTHORITY and
MARISA LAGO, DIRECTOR

FROM: JOSEPH J. NOONAN, ASSISTANT DIRECTOR FOR
ADMINISTRATION & FINANCE and
BERNICE McLENNAN, DIRECTOR OF HUMAN RESOURCES

SUBJECT: RESIDENCY POLICY

On March 9, 1978, the Authority voted to include on all of its job postings a statement that the applicant must be a resident of the City of Boston or become a resident of the City of Boston within six months after appointment. Employees hired after that date are notified of the residency requirement.

Recently the City Council amended the City of Boston Residency Requirement, as codified in the City of Boston Code section 5-5.3. Additionally, the City Council voted to create a Residency Compliance Commission to monitor the compliance with and enforcement of the City's residency requirement. The Mayor has provided a one year amnesty period during which non-residents may maintain their jobs with the City by moving into the City by the end of the amnesty period.

It is now proposed that the Authority adopt the City's residency requirement by applying it to all individuals first employed by the Authority on or after March 9, 1978. If, in the future, EDIC employees become Authority employees, those who were first employed by EDIC before July 1, 1989 (the date EDIC uses for residency compliance for its employees) will be treated as if they were first employed by the Authority before March 9, 1978.

Once the attached Resolution is approved, the Human Resources Division will establish a system for verification that tracks the City of Boston method.

The proposed Resolution is attached

VOTED: To approve and adopt the attached Resolution adopting the City of
Boston Residency Policy.

CITY OF BOSTON

OF THE YEAR NINETEEN HUNDRED AND

AN ORDINANCE

RESOLUTION OF THE BOSTON REDEVELOPMENT AUTHORITY

AMENDING THE BOSTON RESIDENCY ORDINANCE

BE IT RESOLVED that the Members of the Authority hereby adopt the City of Boston residency policy to apply to all employees of the Authority first employed by the Authority on or after March 9, 1978;

BE IT FURTHER RESOLVED that the Members of the Authority hereby declare that for purposes of the City of Boston residency policy all employees of the Economic Development and Industrial Corporation of Boston ("EDIC") that are subsequently transferred to the payroll of the Authority will be treated as if they had been first employed by the Authority before March 9, 1978 so long as they were first employed by EDIC before July 1, 1989.

SECTION TWO: City of Boston Code, Ordinances, Chapter 17, Section 5-13,

paragraph three is hereby amended by -

1. Inserting after the first sentence thereof, the following:-

"A copy of every such certificate shall be transmitted by the department head or file officer to the Boston Residency Compliance Commission within five business days of filing", and,

2. Adding to the end of said paragraph, the following new sentence:-

"Every employee shall be furnished a copy of the residency ordinance when hired and annually thereafter, but failure to receive a copy shall not be held to excuse any violation."



CITY OF BOSTON

IN THE YEAR NINETEEN HUNDRED AND

AN ORDINANCE

AMENDING THE BOSTON RESIDENCY ORDINANCE

Be it ordained by the City Council of Boston, as follows:

✓ **SECTION ONE:** City of Boston Code, Ordinances, Chapter V, Section 5-5.3,

paragraph one is amended by inserting after the words "monies from the city" the following: -

"or the Boston Water and Sewer Commission"

SECTION TWO: City of Boston Code, Ordinances, Chapter V, Section 5-5.3,

paragraph three is hereby amended by: -

✓ 1. Inserting after the first sentence thereof, the following:-

"A copy of every such certificate shall be transmitted by the department head or like officer to the Boston Residency Compliance Commission within five business days of filing.", and,

✓ 2. Adding to the end of said paragraph, the following new sentence:-

"Every employee shall be furnished a copy of the residency ordinance when hired and annually thereafter, but failure to receive a copy shall not be held to excuse any violation."

SECTION THREE: City of Boston Code, Ordinances, Chapter V, Section 5-5.3,

paragraph seven is hereby deleted and the following paragraph is inserted in its place:

"The provisions hereof shall not be waived by the Mayor nor the City Council with respect to a particular person or position. With respect to previous waivers exempting a particular person or position from the residency requirement, such waivers shall continue until such time as the waived individual terminates employment or the waived position becomes vacant."

SECTION FOUR: City of Boston Code, Ordinances, Chapter V, Section 5-5.3, is

amended by inserting after the fourth paragraph the following two new paragraphs:

"The annual list of officials and employees retained by the City Auditor pursuant to St. 1909, c.486, s.27, as amended by St. 1951, c. 111, shall be arranged both alphabetically by name of employee and by street name within each postal code. An address of any employee may be redacted from said lists only where the employee can demonstrate to the Residency Compliance Commission, via the production of court records such as restraining orders, that disclosure of the employee's location would jeopardize the physical well-being of the employee. At least four copies of the list

shall be made and one each delivered to the City Clerk, the office of the City Treasurer, the Boston Finance Commission, and the main branch of the Boston Public Library, all of which shall be available for public inspection during regular business hours."

"To the extent permissible by law, no collective bargaining agreement hereafter entered into by the City of Boston shall contain any provision contrary to the provisions hereof, nor shall the absence of any provision with respect to the residency of any person hired after the date of such contract be deemed to prevent enforcement of this section."

SECTION FIVE: City of Boston Code, Ordinances, Chapter V is amended by inserting after Section 5-9 the following new section 5-10, entitled "Residency Compliance":

Section 5-10.1 Residency Compliance Commission

There shall be a Residency Compliance Commission ("Commission") comprising seven (7) Commissioners, five to be appointed by the Mayor of Boston so long as one is a city union representative and two are members of the citizens group Save Our City; the City's affirmative action officer shall serve ex-officio, and the City Council President, or such other Councillor designated from time to time by the Council President, shall serve ex-officio. The purpose of the Commission shall be to investigate and make findings, pursuant to the following provisions, relative to compliance with the Boston Residency Ordinance, CBC Ord. 5-5.2, 5-5.3 ("Residency Ordinance").

All Commissioners, with the exception of the City Council President, shall serve coterminous with the Mayor and any vacancies shall be filled by the Mayor of Boston for the unexpired term. The Commissioners shall annually elect a Commission Chairperson. Commissioners shall serve without compensation and shall be classified as Special Municipal Employees for purposes of the State Ethics Law, G.L. c. 268A.

The Commission shall have the power to investigate, conduct hearings, subpoena witnesses, compel their attendance, administer oaths, take the testimony of any person under oath and in connection therewith to require the production for examination of any documents, books, papers, or evidence relating to any matter in question or under investigation by the Commission. The Commission may appoint from within or without its membership a hearing officer to conduct particular hearings. Subpoena power shall be exercised by the Chairperson of the Commission, or his or her designee, upon majority vote of the Commission. The employee who is the subject of a hearing shall be afforded notice and an opportunity to provide testimony, witnesses, documents and to have counsel present.

Should the Commission, after hearing, find that an employee, who is subject to the Residency Ordinance, does not reside within the City of Boston, the Commission shall issue its findings to the employee's department head. The Commission shall also, with its findings, advise that the employee's failure to reside within the City of Boston constitutes a voluntary termination of employment under the Residency Ordinance and said department head or appointing authority shall, consistent with the Residency Ordinance, notify the Treasurer to remove the employee's name from the payroll.

Semi-annually, the Commission shall provide a written report to the Mayor, who shall file a copy with the City Council. This report shall include all investigations and findings by the Commission with respect to the Residency Ordinance.

Section 5-10.2 Residency Compliance Unit

There shall be a Residency Compliance Unit ("Compliance Unit") within the Administrative Services Department, Personnel Division, which shall also have the power to conduct investigations of city employees and officers where there is reason to believe that an employee or officer may be in violation of the Residency Ordinance. The Municipal Police Department shall serve as investigators for both the Compliance Unit and the Compliance Commission.

The Compliance Unit shall ensure, pursuant to the Residency Ordinance, the filing of residency affidavits and submission of additional documentation to verify residency. It shall also serve as a vehicle whereby employees and the general public may report those who are believed to be in violation of the Residency Ordinance.

Where questionable claims of residency exist, the Compliance Unit shall forward such to the Compliance Commission for further investigation as delineated by Section 5-10.1.

SECTION SIX: This ordinance shall take effect upon its passage except that nothing herein shall be interpreted to conflict with the provisions of the Mayor's March 16, 1994 directive relative to amnesty which ratifies the settlement of ASFCME v. Menino, Suffolk Superior Court Civil Action No. 94-0891-B, dated March 10, 1994, and which authorizes and directs the settlement of Snyder v. City of Boston, Suffolk Superior Court Civil Action NO. 94-1274-A, dated March 18, 1994.

5-5.2 Residency and Voting Requirements for Certain Officers

Each officer appointed by the Mayor or elected by the City Council and every person who for a period of more than ninety (90) days acts in place of such an officer, except those officers appointed by the Mayor under the provisions of subsection 5-5.6 of this chapter, shall be, or within the six (6) months next following the date of his acceptance of office shall become, both a resident and registered voter of the City of Boston and each such officer shall continue to be both a resident and a registered voter of the City of Boston during his term of office. This section shall not apply to those officers serving in positions without compensation except for reimbursement for expenses actually incurred in the performance of official duties, or to persons acting in place of such officers. If any such officer shall during his term of office remove from the City of Boston or cease to be a registered voter therein he shall be deemed to have become disqualified from holding his office as of the date of such removal or such cessation. Each officer affected by this section shall upon his acceptance of office or within the six (6) months next following thereupon, in writing and under the penalties of perjury, certify to the City Clerk that he is both a resident and a registered voter of the City of Boston. If, upon the expiration of the six (6) months next following his acceptance of office, any such officer shall not have so certified to the City Clerk that he is both a resident and a registered voter of the City of Boston, he shall be deemed disqualified from holding his office, and the City Clerk shall forthwith so notify the Mayor, the City Council, and the Collector-Treasurer. Upon receipt of such notification the Collector-Treasurer shall strike from the payroll the name of any such officer and shall cause no further payments of salary or other compensation to be made thereto. No person deemed disqualified hereunder shall be appointed or elected to any office subject to the provisions of this section for a period of one year next after the date he becomes disqualified unless he shall before the date of such election or appointment have become both a resident and a registered voter of the City of Boston. This section shall not apply to any person in office on the date of the adoption of this section; provided, however, that this section shall apply to any such person upon the expiration of his current term of office whether or not his successor shall have been appointed or elected; and provided, further, that this section shall apply to any such person who shall be appointed or elected to another office to which this section applies upon the date of his acceptance of such other office. Those provisions of this section which require that an officer be a registered voter shall not apply to any person who is by law ineligible to vote if such person shall certify to the City Clerk his ineligibility and the reason therefor.

5-5.3 Residency Requirement. (As amended)

Every person first employed by the City of Boston on or after July 1, 1976, shall be a resident of the City of Boston, and shall not cease to be a resident of the City of Boston during his employment by the City. For the purposes of this ordinance, an employee shall be any person receiving monies from the City or the Boston Water and Sewer Commission subject to withholding taxes by the State or Federal Government, except principal employees and officers subject to the provisions of subsection 5-5.2 hereof.

All persons promoted by the City on or after July 1, 1976, shall be, or within one year of such promotion become, a resident of the City as defined herein. Failure to do so shall be determined to be a voluntary termination of employment.

Upon taking employment with the City, and annually on February first thereafter, every person subject to this section shall file with his or her Department head, or like officer, a certificate, signed under the pains and penalties of perjury, stating his or her name, and place of residence. A copy of every such certificate shall be transmitted by the department head or like officer to the Boston Residency Compliance Commission within five business days of filing. Upon receipt of a certificate indicating a place of residence not within the City of Boston, or if no such certificate is filed, the Department head or like officer shall forthwith strike the name of the employee from the payroll, that person shall cease to be employed by the City, and the Department head or like officer shall give notice of his action to the City Clerk, who shall transmit the same to the City Council, the Mayor, and the Collector-Treasurer. No person so stricken from a payroll, shall be reemployed by the City for a period of one year following the cessation of his or her employment. Every employee shall be furnished a copy of the residency ordinance when hired and annually thereafter, but failure to receive a copy shall not be held to excuse any violation.

Any person acting in behalf of the City who makes payment of wages to any person stricken from a payroll under the provisions hereof, within one year of the date of striking, and any person accepting such payment, shall be punished by a fine of two (\$2.00) dollars for each dollar so paid or accepted.

The annual list of officials and employees retained by the City Auditor pursuant to St. 1909, c.486, s.27 as amended by St. 1951, c. 111, shall be arranged both alphabetically by name of employee and by street name within each postal code. An address of any employee may be redacted from said lists only where the employee can demonstrate to the Residency Compliance Commission, via the production of court records such as restraining orders, that disclosure of the employee's location would jeopardize the physical well-being of the employee. At least four copies of the list shall be made and one each delivered to the City Clerk, the office of the City Treasurer, the Boston Finance Commission, and

the main branch of the Boston Public Library, all of which shall be available for public inspection during regular business hours.

To the extent permissible by law, no collective bargaining agreement hereafter entered into by the City of Boston shall contain any provision contrary to the provisions hereof, nor shall the absence of any provision with respect to the residency of any person hired after the date of such contract be deemed to prevent enforcement of this section.

To the extent permitted by Chapter 31 of the General Laws, every examination held to establish a Civil Service list for employment by the City of Boston shall be restricted to City of Boston residents.

In the event that this section shall be deemed to be in conflict with a provision of any general or special law, the provision of that general or special law shall govern, and shall not defeat the application of this ordinance with respect to any position not governed by that law.

The provisions hereof shall not be waived by the Mayor nor the City Council with respect to a particular person or position. With respect to previous waivers exempting a particular person or position from the residency requirement, such waivers shall continue until such time as the waived individual terminates employment or the waived position becomes vacant.

The provisions hereof are severable, and the action of any court of competent jurisdiction in declaring any part or portion hereof invalid with respect to any position or person shall not be held to apply to any other person or position.

In construing this ordinance, residence shall be the actual principal residence of the individual, where he or she normally eats and sleeps and maintains his or her normal personal and household effects. This ordinance shall be deemed to affect both Civil Service and non-Civil Service employees of the City.

SECTION FIVE: City of Boston Code, Ordinances, Chapter V is amended by inserting after Section 5-9 the following new section 5-10, entitled "Residency Compliance":

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Should the Commission, after hearing, find that an employee, who is subject to the Residency Ordinance, does not reside within the City of Boston, the Commission shall issue its findings to the employee's department head. The Commission shall also, with its findings, advise that the employee's failure to reside within the City of Boston constitutes a voluntary termination of employment under the Residency Ordinance and said department head or appointing authority shall, consistent with the Residency Ordinance, notify the Treasurer to remove the employee's name from the payroll.

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